

STUDENT SUPREME COURT
OF THE UNIVERSITY OF NORTH CAROLINA
AT CHAPEL HILL
DOCKET NO. 22-007

ANDREW GARY, DEAN PEARCE, and)
CONNOR COMMUNITY GOVERNMENT)

Plaintiffs,)

v.)

MARY MILLER, NATE WORLEY, and)
RESIDENCE HALL ASSOCIATION)
EXECUTIVE BOARD)

Defendants.

ORDER DENYING DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT
AND GRANTING PLAINTIFFS LEAVE TO
FILE AMENDED COMPLAINT

THIS MATTER is before the Court on Defendants’ Motion to Dismiss Plaintiffs’ Complaint (Doc. No. 22-0076), filed October 31, 2022, with their Answer. Plaintiffs filed a response in opposition. (Doc. No. 22-0077). The motion is now ripe for review. Defendants mistakenly intertwined their Answer to Plaintiffs’ Complaint with a Motion to Dismiss. Motions to Dismiss should be made after a plaintiff files a complaint and before a defendant answers. Generally, the Court would deny the motion; however, we presume Defendants’ intent to make some dispositive motion. Accordingly, the Court construes Defendants’ motion as a Motion for Summary Judgment. Having reviewed and considered the written arguments for the reasons set forth below, the Court **DENIES** Defendants’ Motion for Summary Judgment.

Plaintiffs filed several suits asserting causes of action arising out of separate disputes relating to student community government (Doc. No. 22-0025), adverse sanctions (Doc. No. 22-0033), and failure to follow proscribed “Open Meeting Laws,” (Doc. No. 22-0053) by

Defendants. This Court consolidated the underlying suits into a single action on September 21, 2022. (Doc. No. 22-0071).

We grant summary judgment if the movant shows no genuine dispute as to any material fact, and the movant is entitled to judgment as a matter of law. R. 41. *See also Undergraduate Senate v. Grodsky*, 2 S.S.C. ____ (2022). It is generally accepted a genuine issue of fact exists if a reasonable fact finder could rule for the non-moving party. Additionally, summary judgment is not appropriate when there are conflicting versions of the events giving rise to the action, when the evidence presented is subject to conflicting interpretation, or where reasonable fact finders might differ regarding the significance of any evidence.

Defendants' Motion for Summary Judgment implicates several factual issues presenting conflicting events. Moreover, Defendants raise several novel law issues as defenses to all claims. Additionally, Plaintiffs allege Defendants failed to post the meeting minutes under public law, while Defendants assert their compliance. There is, at a minimum, a dispute of material fact. Compare (Doc. No. 22-0053) with (Doc. No. 22-0076).

The Court also notes deficiencies in both the Complaint and Answer. While Plaintiffs' factual allegations are detailed, they fail to allege what specific conduct supports the elements of each claim, making it difficult to determine the factual basis for each claim. Moreover, they fail to allege how each Defendant is responsible for (or the cause of) each of the alleged claims, the nature and extent of the harm asserted, and what relief Plaintiffs are entitled to by law. The result is confusion for the Defendants in framing a responsive pleading and for the Court in determining the scope of Plaintiffs' claims. Neither the Court nor Defendants should be required to sift through the allegations to determine which are material to each claim. Defendants' Answer is deficient for similar reasons. Defendants raise no affirmative defenses but, instead, interpretations of law the first of its kind. The Court,

sua sponte, will direct the parties to correct these deficiencies promptly before further action commences.

IT IS ORDERED that Defendants' Motion for Summary Judgment (Doc. No. 22-0076) is **DENIED**. The parties are advised the Court presumes trial in this matter, scheduled for the fall semester trial term, will proceed as scheduled. A pretrial conference will be held on Thursday, November 10, 2022, and scheduled by a separate order.

IT IS FURTHER ORDERED that Plaintiffs are **GRANTED** leave to amend their Complaint and refile by Monday, November 7. The amended complaint must conform to formatting rules and include action number 22-007 and the words "AMENDED COMPLAINT" in the caption. Plaintiffs' are encouraged to have background information that illuminates the relevant parties' relationships, preceding events, and the impact of those events. Defendants are encouraged to do the same. Plaintiffs must also include a causal link to Defendants' alleged actions, the nature and extent of the harm done, and whether Plaintiffs' "elect" status is relevant. Finally, the Plaintiffs must include the relief sought and under what authority this Court may grant it. Plaintiffs are reminded that the amended complaint supersedes previous complaints, and they may not reference the original complaint(s).

Failure to respond to this order or filing outside the time provided will result in the dismissal of this action without prejudice and further notice to Plaintiffs.

Defendants are **GRANTED** leave to amend their answer after the Court receives Plaintiffs' First Amended Complaint and refile by Thursday, November 10. Defendants' answers must conform to formatting rules and include action number 22-007 and the words "ANSWER TO FIRST AMENDED COMPLAINT" in the caption. Should Defendants raise the same defenses, they must show more to support their standing arguments, why a party

is necessary or indispensable, what is an advisory opinion under relevant authorities, and how it applies to this Court.

Defendants are reminded that admissions within the answer are factual admissions and that the amended complaint supersedes previous complaints. Defendants may not make references to the original complaint(s). Defenses and counterclaims are waived if not contained within the answer.

Failure to respond to this order or filing outside the time provided may result in a default judgment.

This order terminates Docket Nos. 22-002, 22-003, 22-005.

IT IS SO ORDERED.

/s/Michael Conway

Associate Justice,
Student Supreme Court

/s/Caroline Hoover

Associate Justice,
Student Supreme Court

/s/Angus Ewington

Associate Justice,
Student Supreme Court

/s/Nathaniel Shue

Associate Justice,
Student Supreme Court

Dated this 3rd
day of November 2022.